No. 2163

United States Circuit Court of Appeals
for the Ninth Circuit.

THOMAS CHRISTIANSON,
Plaintiff in Error,
vs.
THE COUNTY OF KING,
Defendant in Error.

TRANSCRIPT OF RECORD

Upon Writ of Error to the United States District Court
for the Western District of Washington,
Northern Division.

Lowman & Hanford Co., Seattle

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In the District Court of the United States for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON,
Plaintiff in Error,
vs.
THE COUNTY OF KING,
Defendant in Error.
No. 1969.

NAMES AND ADDRESSES OF COUNSEL.

EDWARD JUDD, ESQ.,
620 New York Block, Seattle, Washington,
Attorney for Plaintiff in Error.

SAMUEL S. LANGLAND, ESQ.,
534 New York Block, Seattle, Washington,
Attorney for Plaintiff in Error.

WALTER A. KEENE, ESQ.,
745 New York Block, Seattle, Washington,
Attorney for Plaintiff in Error.

JOHN F. MURPHY, ESQ.,
400 Melhorn Building, Seattle, Washington,
Attorney for Defendant in Error.

ROBERT H. EVANS, ESQ.,
400 Melhorn Building, Seattle, Washington,
Attorney for Defendant in Error.

In the United States Circuit Court of the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff,* vs. THE COUNTY OF KING, *Defendant.*	}	No. 1969. COMPLAINT.

And now comes the plaintiff and complains of the defendant as follows:

I.

That the plaintiff is a subject of the King of Norway.

II.

That the defendant is a municipal corporation, organized under the laws of the State of Washington, and is a citizen of the State of Washington.

III.

That the controversy in this action is between a subject of a foreign government and citizen of the State of Washington, and of the United States of America. That the matter in dispute and controversy in this action, exclusive of interest and costs, exceeds in value the sum of Three Hundred Thousand Dollars ($300,000).

IV.

That during the month of March, 1865, one, Lars Torgerson Crotnes, departed this life in the County of King in the Territory of Washington, intestate, and being at the time of his death a resident of the County of King. That at the time of his death, said Lars Torgerson Crotnes was commonly known in the neighborhood where he resided by the name of John Thompson.

V.

That prior to his death, said Lars Torgerson Crotnes had become the owner in fee under a chain of mesne conveyances

from the United States of America, of a certain tract or parcel of land, the title to which was conveyed to him under the name of John Thompson, which tract or parcel of land is located in the County of King and State of Washington, and more particularly described as follows, to-wit:

Beginning at a post on the right bank of Duwamish River, the same being the Southwest corner of the Original Donation Land Claim of Luther M. Collins, in Township 24 North of Range 4 East, in Section 29; running thence east along the south boundary of said claim, and the north boundary of J. Bush's claim 14 chains and 3 links; thence north 13 deg. 04′ east, 124 chains to the north line of said claim, so as not to enclose any of the improvements upon the east half of that portion of said claim deeded by said L. M. Collins to Joseph Williamson and William Greenfield, thence west along the north line of said claim, 20 chains and 67 links to a post, the same being the northwest corner of said claim; thence south along the west boundary of said claim, 82 chains to a post on the right bank of the Duwamish River, being the southeast corner of Eli B. Maple's land claim; thence along the meanderings of said river to the southwest corner of said land claim, the place of beginning, so as to contain 160 acres.

VI.

That said Lars Torgerson Crotnes died a bachelor, leaving him surviving as his heirs at law, two brothers, one sister, and the children of a deceased sister, all of whom were subjects of the King of Norway. That the plaintiff is a son of a sister of said Lars Torgerson Crotnes, and one of his heirs at law. That all the now living heirs at law of said Lars Torgerson Crotnes have by proper mesne conveyances, conveyed their right, title and interest in and to said lands above described to the plaintiff. That the plaintiff is now the sole owner in fee of said land.

VII.

That said Lars Torgerson Crotnes was born on or about the 30th day of August, 1829, in the City of Porsgrund, in the Kingdom of Norway. That the name of his father was Torger

Engebretson Crotnes, and the name of his mother was Cathrine Grotnes. That at the age of about 21 years he shipped as a sailor from said city of Porsgrund and went by way of England to Australia, and thence in the year 1856, to the City of San Francisco, California. That while in the harbor of said last named city he fled from the sailing vessel on which he was a sailor because of abuse and ill treatment. That he changed his name from Lars Torgerson Grotnes to John Thompson in order to conceal his identity, so that he could not be apprehended and brought back to the vessel from which he had fled. That he came to the neighborhood of Elliott Bay in said King County, and resided in the neighborhood of the same King County and Kitsap County, in said State of Washington, until the time of his death in 1865. That he acquired the land above described under the name of John Thompson.

VIII.

That the heirs at law of said Lars Torgerson Grotnes had no knowledge of what had become of him, and did not learn about his death and the place in which he died, nor of the fictitious name which he had assumed, until within three years last past. That since learning thereof, such heirs, and particularly the plaintiff, have been diligently engaged in searching for and procuring the proper proofs of the identity of Lars Torgerson Grotnes and John Thompson, and his relationship to them.

IX.

That on the 26th day of March, 1865, one, Daniel Bagley, was duly appointed administrator of the estate of John Thompson, deceased, by the Probate Court of the County of King, in the Territory of Washington. That such proceedings were had in said estate in said Probate Court, that on the 26th day of May, 1869, a final decree of distribution was entered in said estate, in which it was recited that the administrator had on February 12, 1869, obtained an order of Court settling and allowing his final account, and recited that a time had been properly set for a hearing upon the entering of a decree of distribution in said estate and due and legal notice of such

hearing had been given, and after reciting the facts stated, said decree proceeded in the words and figures following to-wit:

"That said administrator had fully accounted to the Court for all of the said estate that has come into his hands and that the said estate, so far as discovered, has been fully administered and the residue thereof, consisting of property hereinafter mentioned, is ready for distribution; that all of the debts of the said deceased and of said estate and all the expenses of administration have been paid, and the said estate is in condition to be closed; that the decedent died intestate in the County of King, Territory of Washington, on the —— day of March, 1865, leaving no heirs surviving him; there being no heirs of the said deceased, that the entire estate escheats to the County of King, Territory of Washington.

Therefore, on this 26th day of May, 1869, no objections being made or filed, it is hereby ordered, adjudged and decreed that all of the acts of the said administrator as reported to this Court, and as appearing on the records thereof, be and the same are hereby approved and confirmed; that after deducting the estimated expenses of closing said estate, the residue of said estate of John Thompson, deceased, not heretofore distributed, hereinafter described, and now remaining in the hands of the said administrator, and any other property not now known or discovered, which may belong to the said estate or in which the said estate may have an interest, be and the same is hereby distributed as follows, to-wit:

The entire estate to the County of King, in Washington Territory.

The following is a particular description of the said residue of the said estate referred to in said decree and of which distribution is ordered, adjudged and decreed, to-wit:

160 acres of land on Duwamish River, more particularly described in a certain deed from Joseph Williamson and William Greenfield to Thompson dated January 19, 1865, and recorded in Volume 1 of Deeds, page 458 (and personal property).

Dated May 26, 1869.

THOMAS MERCER, Judge."

That said decree was null and void, and said Probate Court was wholly without jurisdiction to in any manner vest, transfer, convey, fix or pass upon the title to the land described in said decree, and had no power or authority to declare said land escheated, which is the same land as above described.

That all claims to said land by the defendant, and all acts done by the defendant in reference to said land, and all control exercised or attempted to be exercised by the defendant over said land, have been made, done, performed and exercised, under and by virtue of said null and void decree above described.

That the defendant has not, and never has had any contract, deed, conveyance, decree, judgment, nor other writing, record or document evidencing, or purporting to evidence any title on its part in or to said land.

That the defendant has never at any time begun or instituted any suit or legal proceeding of any nature before any court, officer or tribunal, for the purpose of having an escheat of said land adjudicated, adjudged or declared; nor has any other public authority or officer ever begun or instituted any such suit or legal proceeding.

That the defendant has never at any time begun or instituted any suit or legal proceeding of any nature, before any court, officer or tribunal, for the purpose of having any title, or claim of title, which it had or might have in said land established, approved, confirmed or quieted; nor has any other public authority or officer ever begun or instituted any such suit or legal proceeding.

X.

That after the entry of said decree, the land above described was marked upon the assessor's roll as county property and as exempt from taxation, and has ever since been so treated, except certain portions thereof hereinafter described, which the defendant has assumed to convey to private parties by deed.

That about the year 1885, the County of King, in the then Territory of Washington, took possession of a certain portion of the tract of land above described, which said portion remained in its possession and after the organization of the State

of Washington, has remained in the possession of the defendant, and is generally known as the "King County Farm," and is more specifically described as follows:

Beginning at a post on the right bank of the Duwamish River, the same being the southeast corner of the Original Donation Land Claim of Luther M. Collins, in Township 24 North, Range 4 East in Section 29; running thence east along the south boundary of said claim, and the north boundary of J. Bush's claim 14 chains and 3 links; thence north 13 degrees and 4′ east, to the east bank of the Duwamish River; thence in a Southwesterly direction along the meanderings of said river to the place of beginning.

That the same has never been used for any county purposes, but has been let out to tenants for the purpose of being farmed and producing a monetary income for the county.

That about the year 1900, the defendant took possession of a portion of the tract of land first above described, which portion is known as the "King County Hospital Grounds," and is more specifically described as follows:

Beginning at the southeast corner of block 6, in King County Addition to the City of Seattle, thence along the southwest side of said block 6 to the southwest corner of said Block 6; thence south to the east bank of the Duwamish River; thence in a southerly direction along the east bank of said Duwamish River to the point of its intersection with the west line of Charleston Avenue; thence in a northeasterly direction along the west line of Charleston Avenue to the place of beginning.

That the defendant has placed upon the last described tract of land valuable improvements in the shape of a hospital building and its appurtenances, the exact value of which are to the plaintiff unknown, and since thus taking possession of the last described tract, has been and now is using the same for county hospital purposes.

That in the year 1892, the defendant assumed to make a plat of a certain portion of the tract of land first above described, and caused the same to be called the "King County Addition to the City of Seattle," and caused the same to be

recorded in the office of the Auditor of King County in Volume VIII of Plats on page 59.

That the defendant has assumed to sell and convey to private parties all of the land composing said last named King County Addition, except such portion as is described as follows:

"Lots 1, 2, 3, 4, 8 and 9, in Block 5; Lots 5, 6, 7, 8, 9, in Block 7, which said Lots always have been and now are vacant and unoccupied, and Lots 20 and 21, in Block 7, which last two lots were unoccupied and vacant until within less than ten years last past, but within the time last mentioned have been leased by the defendant to other parties to produce a monetary income."

That in the year 1903, the defendant had assumed to make a plat of a certain portion of the tract of land first above described and caused the same to be called "King County 2nd Addition to the City of Seattle," and caused the same to be recorded in the office of the Auditor of said King County, in Volume II of Plats, on page 1. That the defendant has assumed to sell and convey to private parties all of the land composing said last named King County 2nd Addition, except such portion as is described as follows:

Lots 1 to 9 both inclusive; Lots 13 to 16 both inclusive, and Lots 20 to 27 both inclusive, in Block 1; all of Blocks 2, 3 and 4; Lots 1 to 4 both inclusive; 8, 9, 12 to 16 both inclusive, and 21 to 25 both inclusive, all in Block 5; Lots 1 to 14 both inclusive, to 20 to 23 both inclusive, in Block 6; Lots 2, 6 to 9 both inclusive, and 18 to 20 both inclusive, all in Block 7; Lots 1 in Block 8; and Lots 2 to 5 both inclusive in Block 12, which said Lots always have been and now are vacant and unoccupied, and lots 10 to 12 both inclusive, and 17 to 19 both inclusive, all in Block 1, which 6 last described lots were unoccupied and vacant until within less than ten years last past, but within the time last mentioned have been leased by the defendant to other parties to produce a monetary income.

XI.

That the tracts of land hereinbefore described as the "King County Farm," "King County Hospital Grounds," "King County Addition to the City of Seattle" and "King County 2nd

Addition to the City of Seattle," together comprise the whole of the tract herein first above described as being the property belonging to Lars Torgerson Grotnes, except certain portions thereof which have been appropriated for public or quasi public purposes for railroad rights of way or highways.

XII.

That the plaintiff is entitled to recover from the defendant all of the buildings and improvements and tangible betterments which the defendant placed upon or attached to said land prior to the year 1903, but the plaintiff hereby expressly disclaims all right to any such buildings, improvements or tangible betterments, and hereby admits and consents that the defendant may retain the same, or be reimbursed for the same out of the said land at the present value of said buildings, improvements and tangible betterments.

WHEREFORE, the plaintiff prays that he may recover from the defendant the land hereinbefore described as the "King County Farm;" the land hereinbefore described as the "King County Hosiptal Grounds;" the land hereinbefore stated not to have been assumed to be sold and conveyed by the defendant to private parties, which is located in said "King County Addition to the City of Seattle," and the land hereinbefore stated not to have been assumed to be sold and conveyed by the defendant to private parties, which is located in said "King County 2nd Addition to the City of Seattle;" that the title of the plaintiff to said land may be quieted and confirmed; that the plaintiff may recover of the defendant the costs of this action and that the plaintiff may have such other and further relief as to the Court may seem meet.

EDWARD JUDD,
S. S. LANGLAND, and
W. A. KEENE,
Attorneys for Plaintiff.

P. O. Address: 620-621 New York Block, Seattle, Washington.

State of Washington,
County of King—ss.

THOMAS CHRISTIANSON, being first duly sworn, on oath deposes and says, that he is the plaintiff in the above entitled action; that he has heard read the foregoing complaint, and knows the contents thereof, and believes the same to be true.

THOMAS CHRISTIANSON.

SUBSCRIBED and sworn to before me this 24th day of April, 1911.

(Seal) ANNA RASDALE,
Notary Public in and for the State of Washington, residing at Seattle.

Indorsed: Complaint. Filed in the U. S. Circuit Court, Western District of Washington, Apr. 24, 1911. Sam'l D. Bridges, Clerk. W. D. Covington, Deputy.

In the United States Circuit Court of the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON,
Plaintiff,
vs.
THE COUNTY OF KING,
Defendant.

No. 1969.

AMENDED DEMURRER.

Comes now the defendant by protestation and not confessing or acknowledging any or all of the matters or things contained or alleged in plaintiff's complaint herein to be true, and reserving herewith the right of defendant to answer to each and all of the allegations so made by plaintiff in said complaint and to file the several defenses of this defendant thereto, the defendant herewith demurs to said complaint, and for a cause of demurrer to same shows:

1. That the plaintiff has no legal capacity to maintain this action.

2. That the said complaint does not state facts sufficient to constitute a cause of action against the defendant.

3. That said action has not been commenced within the time limited by law therefor.

4. That said complaint shows upon its face that the plaintiff has been guilty of laches and of procrastination in the bringing of said action.

5. That the Court has no jurisdiction over the person of defendant, or over the subject matter of said action.

6. That plaintiff's complaint shows that plaintiff by his own acts, deeds and omissions is now estopped from bringing and maintaining this action or from asserting any right, title or interest in and to the property described in said complaint.

JOHN F. MURPHY, and
ROBERT H. EVANS,
Solicitors for Defendant.

United States of America,
Western District of Washington—ss.

ROBERT H. EVANS, being first duly sworn, on oath deposes and says that he is one of the solicitors for the defendant above named; that he has read the foregoing demurrer, knows the contents of same, and believes that said demurrer to said complaint is well taken and is well founded in law, and herewith certifies upon his honor and belief that said demurrer to said complaint is well founded as aforesaid.

ROBERT H. EVANS.

Subscribed and sworn to before me this 17th day of May, 1911.

LOUIE T. SILVAIN,
Notary Public in and for the State of Washington, residing at Seattle.

United States of America,
Western District of Washington—ss.

DAVID McKENZIE, being first duly sworn, on oath deposes and says that he is Chairman of the Board of County

Commissioners of the defendant King County; that he has read the foregoing demurrer to plaintiff's complaint, and that the same is not interposed by the defendant for the purpose of delaying said suit or other proceedings therein.

DAVID McKENZIE,

Subscribed and sworn to before me this 17th day of May, 1911.

N. M. WARDALL,

Deputy County Auditor in and for the State of Washington, residing at Seattle.

(Seal)

Copy of Amended Dem. received and due service of same acknowledged this 17th day of May, 1911.

EDWARD JUDD, Per R.,
Solicitor for Plaintiff.

Indorsed: Amended Demurrer. Filed U. S. Circuit Court, Western District of Washington, May 25, 1911. Sam'l D. Bridges, Clerk. B. O. Wright, Deputy.

In the District Court of the United States for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff*,
vs.
THE COUNTY OF KING, *Defendant*.

No. 1969.

OPINION.

Edward Judd, S. S. Langland and Walter A. Keene, for plaintiff. John F. Murphy and Robert Evans, for defendant.

RUDKIN, District Judge. This is a statutory action to recover possession of real property and to quiet title in the plaintiff. The complaint is somewhat voluminous and was doubtless prepared with a view of presenting, on the face of

the pleadings, the more important questions of law involved in the case.

It appears from the complaint that Lars Torgerson Grotnes was born in the City of Porsgrund, in the present Kingdom of Norway, on the 30th day of August, 1829. When he arrived at the age of majority he shipped as a sailor from his native city, went by way of England to Australia and thence to the City of San Francisco in the State of California, where he arrived in the year 1856. On his arrival in San Francisco he deserted the ship on which he was employed, because of abuse and ill treatment, and changed his name from Lars Torgerson Grotnes to John Thompson, in order to conceal his identity and thus avoid apprehension. He then came north to the vicinity of Elliott Bay, in King County, and resided in the counties of King and Kitsap, in the territory of Washington, until his death in the year 1865. While residing in King County he acquired title to one hundred and sixty acres of land, the greater part of which is now in controversy, under his assumed name of John Thompson. On the 26th day of March, 1865, one Daniel Bagley was appointed administrator of the estate of John Thompson, deceased, by the Probate Court of King County. Such proceedings were had in the settlement of the estate that on the 26th day of May, 1869, a final decree of distribution was entered which recited, among other things, that the administrator had obtained an order settling and allowing his final account on the 12th day of February, 1869; that a time had been fixed for hearing the application for a decree of distribution, and that due and legal notice of such hearing had been given. The decree then proceeded as follows:

"That said administrator has fully accounted to the Court for all of the said estate that has come into his hands and that the said estate, so far as discovered, has been fully administered and the residue thereof consisting of the property hereinafter mentioned, is ready for distribution; that all of the debts of the said deceased and of said estate and all the expenses of administration have been paid, and the said estate is in condition to be closed; that the decedent died intestate

in the County of King, Territory of Washington, on the —— day of March, 1865, leaving no heirs surviving him; there being no heirs of the said deceased, that the entire estate escheats to the County of King, Territory of Washington."

Therefore on this 26th day of May, 1869, no objections being made or filed, it is hereby ordered, adjudged and decreed that all of the acts of the said administrator as reported to this Court, and as appearing on the records thereof, be and the same are hereby approved and confirmed; that after deducting the estimated expenses of closing said estate, the residue of said estate of John Thompson, deceased, not heretofore distributed, hereinafter described, and now remaining in the hands of said administrator, and any other property not now known or discovered, which may belong to the said estate or in which the said estate may have an interest, be and the same is hereby distributed as follows, to-wit:

"The entire estate to the County of King, in Washington Territory;

"The following is a particular description of the said residue of the said estate referred to in said decree and of which distribution is ordered, adjudged and decreed, to-wit:

"160 acres of land on Duwamish River, more particularly described in a certain deed from Joseph Williamson and William Greenfield to Thompson, dated January 19, 1865, and recorded in Volume 1 of Deeds, page 458 (and personal property). Dated May 26, 1869."

The complaint then avers that this decree was null and void; that the Probate Court was without jurisdiction to declare an escheat; that all claims of the defendant and all acts done by the defendant in reference to the land in controversy have been done, performed and exercised under and by virtue of this void decree; that the defendant has no contract, deed, conveyance, decree, judgment or other writing evidencing or purporting to evidence any title on its part in or to said lands, and that the defendant has never, at any time, instituted any suit or legal proceeding of any nature before any court, officer or tribunal for the purpose of having an escheat of said lands adjudicated or declared, nor has any public authority

or officer ever begun or instituted any such suit or legal proceeding. The complaint next avers that upon the entry of the decree in the Probate Court the property in controversy was marked on the assessment rolls of the county as county property and as exempt from taxation, and has ever since been so treated, except certain portions thereof which the defendant has assumed to convey to private parties by deed; that in the year 1885 the County of King, in the then Territory of Washington, took possession of a certain portion of the tract, which said portion remained in its possession after the organization of the State of Washington and is generally known as the "King County Farm," which is specifically described in the complaint; that the last-described tract has never been used for any county purpose, but has been leased to tenants for the purpose of producing a revenue for the county; that about the year 1900 the defendant took possession of another portion, known as the "King County Hospital Grounds," which is specifically described in the complaint; that the defendant has placed upon the last-described tract valuable improvements in the shape of a hospital building and its appurtenances, the value of which are to the plaintiff unknown, and since thus taking possession the county has used and is now using the same for county hospital purposes; that in the year 1892 the defendant assumed to make a plat of a certain portion of the tract called the "King County Addition to the City of Seattle," and caused the plat thereof to be recorded in the office of the Auditor of King County as required by law; that the defendant has assumed to sell and convey to private parties all of the lots and lands composing this addition, except certain portions which are specifically described in the complaint; that in the year 1903 the defendant assumed to make a further plat of a certain portion of the tract called "King County 2nd Addition to the City of Seattle," and caused the plat thereof to be recorded in the office of the Auditor of King County, as required by law; that the defendant has assumed to sell and convey to private parties all of the lots and lands composing this addition. except certain portions which are particularly described in the complaint; that the tracts of land described as the "King County Farm," "King County

Hospital Grounds," "King County Addition to the City of Seattle," and "King County 2nd Addition to the City of Seattle," comprise the whole tract acquired by Grotnes or Thompson, except certain portions which have been appropriated for public purposes. The complaint further avers that the plaintiff herein is a son of the sister of Lars Torgerson Grotnes and one of his heirs at law, and that all the now living heirs at law of Grotnes have, by proper mesne conveyances, conveyed their right, title and interest in and to the lands described in the complaint to this plaintiff, who is now the sole owner in fee thereof. It is further averred that the heirs at law of Grotnes had no knowledge of what had become of him; did not learn of his death or the place in which he died, or of the fictitious name which he had assumed until within three years last past, and that since learning thereof such heirs, and particularly the plaintiff, have been diligently engaged in searching for and procuring the proper proofs of the identity of Lars Torgerson Grotnes and John Thompson and his relationship to them.

To this complaint the defendant has interposed a demurrer on the grounds, among others, that the complaint does not state facts sufficient to constitute a cause of action, and that the action has not been commenced within the time limited by law:

At the time of the death of Grotnes, or Thompson, the Probate Practice Act of January 16, 1863, (Laws of '63, p. 198), entitled, "An Act defining the jurisdiction and practice in the Probate Courts of Washington Territory," was in force. Chapter XVI of that act provides for the partition and distribution of estates; chapter XVII for the descent of real property, and chapter XVIII for the distribution of personal property. Section 317 of the act provides that:

"Upon the settlement of the accounts of the executor or administrator, or at any subsequent time, upon the application of the executor or administrator, or any heir, devisee or legatee, the Court shall proceed to distribute the residue of the estate, if any, among the persons who are by law entitled."

Section 318 provides that:

"In the decree the Court shall name the person and the

portion, or parts, to which each shall be entitled; and such persons shall have the right to demand and recover their respective shares from the executor or administrator, or any person having the same in possession."

Section 319 provides that:

"The decree may be made on the application of the executor or administrator, or of any person interested in the estate, and shall only be made after notice has been given in the manner required in regard to an application for the sale of land by an executor or administrator. The Court may order such further notice to be given as it may deem proper."

Section 340 provides:

"When any person shall die seized of any lands, tenements, or hereditaments, or any right thereto, or any title to any interest therein, in fee simple, or for the life of another, not having lawfully devised the same, they shall descend, subject to his debts, as follows:"

The first seven subdivisions prescribe the rule or order of descent among the different degrees of kindred, and the eighth subdivision declares:

"If the intestate shall leave no kindred, his estate shall escheat to the county in which such estate may be situate."

Section 353 provides for the distribution of the personal estate, and the seventh subdivision reads as follows:

"If there be no husband, widow, or kindred of the intestate, the said personal estate shall escheat to the county in which the administration is had, and a receipt by the county treasurer of the county to whom such personal property shall be conveyed by the administrator, shall be a full discharge of all responsibility to the said administrator."

The defendant contends, first, that the decree of distribution or escheat, made after due notice, pursuant to this statute, is binding upon the plaintiff and upon all the world; and, second, that in any event, it appears from the face of the complaint that the action is barred by the statute of limitations and by *laches*. The plaintiff, on the other hand, contends first, that property in a territory which escheats for want of heirs goes to the United States and not to the territory or any county

therein; second, that the act violates section eighteen hundred and fifty-one of the Revised Statutes, which declares that, "The legislative power of every territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and Laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no taxes shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents;" third, that the act violates section nineteen hundred and twenty-four of the Revised Statutes, which contains the following provision:

"To avoid improper influences, which may result from intermixing in the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title."

And, lastly, that an escheat can only be enforced by a common law proceeding in the nature of an inquest of office, and that the Territorial Probate Court had no common law jurisdiction.

I will first consider briefly the several objections urged against the validity of the territorial statute by the plaintiff. The first objection is, in my opinion, without merit. As already stated, the legislative power of the territory extended to all rightful subjects of legislation, and a statute providing for the descent and distribution of property in cases of intestacy would certainly seem to fall within that category. The act was never disapproved by Congress (Section 1850 U. S. R. S.); its validity has been recognized by both State and Federal Courts (*Territory v. Klee*, 1 Wash. 183; *Pacific Bank v. Hanna*, 90 Fed. 72), and, in the language of the Court in *Crane v. Reeder*, 21 Mich., 24:

"Congress never legislated on the subject, and there never has been an instance of an escheat claimed to have accrued to the United States since they came into existence."

Again the Court said:

"We have no tenures which would stand between the government and the estate, and it becomes, therefore, a very narrow inquiry where the escheat shall go."

"It would seem to be an obvious answer, that it must go where the law directs. Tenures and their incidents, the rules of inheritance, are all the creatures of the law, and except as to rights already vested, may be changed and modified at pleasure. And it was for the law-making power, that could control lands and their enjoyment in Michigan, to direct where lands should go for default of heirs, as it was to direct who should be regarded as heirs at all. For there is no such thing as a natural line of inheritance independent of the law. * * *"

"If Congress had seen fit to provide for such cases, we think it had power to do so. We are not prepared to question its authority on any theoretical grounds arising out of the conditions of cession, although those conditions are significant in construing the ordinance. This region was acquired by treaty, and did not come into the actual possession of the United States until after the Constitution was adopted, and it was held in *United States v. Repentigny* that the United States succeeded directly to the rights of the French and British Governments, which had complete supremacy. But the articles of confederation made no provision for the direct legislation of Congress over the local affairs of any part of the country, and such direct government, while possibly it might have been lawful, would have been at variance with the whole theory of local government, which had been acted upon both by states and colonies. The delegation of legislative powers to the territories was practically a necessity, and the ordinance of 1787, while retaining a right of vetoe or disapproval of the acts of the governor and judges, provided expressly that such laws as are not disapproved shall only be repealed by local authority. No one can read the ordinance without perceiving that it was intended to throw the whole regulation of local affairs upon the local government. The public lands were not to be interfered with till they had been severed from public domain by primary disposal. But when they had become private property, they came, like all private rights, under local regulation."

"Immediately after the Government of the United States was organized under the Constitution, a brief statute was passed to adapt the ordinance to the Constitution; not to change its

nature, but, as stated in the preamble, in order that it *'may continue to have full effect.'*"

"And so long as the system should continue, the whole local regulation was clearly delegated to the territory, as it was afterwards to Michigan when separately organized."

"Even under the old common law notions the creation of such a government would be at least an equivalent to the erection of a county Paletine, and would transfer all necessary sovereign prerogatives. But under this ordinance the territory only differed from a state in holding derivative instead of independent functions, and in being subject to such changes as Congress might adopt. But, until revoked or annuled, the act of the territory was just as obligatory as the act of Congress, and for the same reason."

The statute does not interfere with the primary disposal of the soil; that term is used in reference to the public lands of the United States and means their disposal by the officers or agents of the government to some person who, having the qualifications to acquire such lands, and having complied with the terms of the law, is entitled to a conveyance by patent or deed without any reserved authority in the government or its officers to withhold the same.

> *Topeka Commercial Security Co. v. McPherson,* 7 Okla. 332.

Mormon Church v. United States, 136 U. S. 1, *Territory v. Lee,* 2 Mont. 124, and *Williams v. Wilson,* 1 Martin & Yerger, (1 Tenn., p. 247), cited by the plaintiff, are not in point. In the Mormon Church case the act of Congress explicitly declared that the property should be forfeited to the United States. In the Montana case the territorial legislature attempted to forfeit to the territory possessory rights in mining claims held by aliens, while the title to the property was vested in the general government. In the Tennessee case it does not appear that there was any territorial legislation on the subject, or that there was any territorial government to which the property could escheat.

The next contention is, that the provisions of the Probate Practice Act of 1863 relating to wills and to the descent and

distribution of property are not within the title of the act and therefore void. Mere lapse of time and a proper regard for the stability of titles forbid an inquiry into this question at this late day. All our probate laws have been enacted under similar titles, their validity has been recognized by the courts, and acquiesced in by the people, for upwards of half a century, and to overthrow them now would unsettle half the titles in the state. Furthermore, if the question were a new one the objection is not tenable. It is conceded that the provision relating to the distribution of estates is within the title, and, if so, it is but a short step to provide to whom distribution shall be made; otherwise the provision for distribution itself would be wholly inoperative.

It is lastly contended that the Probate Court had no jurisdiction to determine the rights of those claiming adversely to the estate and that it had no jurisdiction to declare or decree an escheat. The first proposition will be acceded to if claims adverse to the intestate are meant, but if it means the conflicting claims of those claiming under the intestate the proposition is wholly without merit, for such power is exercised by Probate Courts every day; in fact that is the principal office of a hearing on the application for a decree of distribution. Whether the Probate Court had jurisdiction to declare or decree an escheat depends entirely upon the construction of the local laws of the territory. It will be conceded that the usual form of proceeding for this purpose at common law was by an inquisition or inquest of office before a jury, but whether this or some other form of proceeding shall be resorted to depends wholly upon the legislative will. As said by the Court in *Hamilton v. Brown*, 161 U. S. 256, 263:

"In this country, when title to land fails for want of heirs and devisees, it escheats to the state as part of its common ownership, either by mere operation of law, or upon an inquest of office, according to the law of the particular state."

There is nothing sacred about this or any other rule of the common law; for, as said by the Court in *Munn v. Illinois*, 94 U. S. 113, 134:

"A person has no property, no vested interest, in any rule

of the common law. That is only one of the forms of municipal law, and is no more sacred than any other. Rights of property which have been created by the common law cannot be taken away without due process; but the law itself, as a rule of conduct, may be changed at the will, or even at the whim, of the legislature, unless prevented by constitutional limitations. Indeed, the great office of statutes is to remedy defects in the common law as they are developed, and to adapt it to changes of time and circumstances."

It was therefore entirely competent for the legislature to provide that the territory or one of its counties should be the ultimate heir of those dying intestate and without other heirs or kindred; and it was further competent for it to provide that the rights of the territory or the county should be determined by the Probate Court in the administration proceeding in the same manner and by the same procedure as the rights of any other claimant to the estate.

It is conceded that under section 340 of the Probate Act relating to the descent of real property, it would have been entirely competent for the Court to determine that there were no children or lineal descendants of the intestate under subdivision one, and to distribute the property to the father under subdivision two. It would likewise have been competent for that Court to determine that there was no father or lineal descendants under subdivisions one and two and to distribute it to the brothers and sisters under subdivision three. Its determination upon these questions after due notice and hearing, on well established principles, would be binding upon the whole world.

McGee v. Big Bend Land Co., 51 Wash. 406.
In re Ostlund's Estate, 57 Wash. 359.
Case of Broderick's Will, 21 Wall. 503.
Proctor v. Dicklow, 45 Pac. 86.

Why was it not equally competent for the Probate Court to determine that there were no kindred and to escheat the property to the county? In my opinion such was the legislative intent, and this view of the subject is strengthened by reference to subdivision seven of section 353, relating to the

distribution of personal property. It is there provided that if there be no husband, widow or kindred of the intestate, the personal estate shall escheat to the county and the administrator shall convey it to the county treasurer. The provision is not that the administrator shall convey it to the county treasurer, if not claimed by husband, widow or kindred, but that he shall convey it if there are none such, and the Probate Court was necessarily invested with jurisdiction to determine that question. This view is further strengthened by the fact that the provision of section 480 of the Civil Practice Act of 1854 (Laws '54, p. 218), authorizing the prosecuting attorney to file an information in the District Court for the recovery of property escheated or forfeited to the territory, was eliminated by the Civil Practice Act of 1863 (Laws '63, p. 192), and since 1863 there was no provision in the laws of either the territory or state, in relation to escheats, except those found in the Probate Practice Act, until the passage of the Act of 1907.

1 Rem. & Ball. Code, Sec. 1356, *et. seq.*

The latter act left the subject of escheats to be dealt with by the Court administering the estate as before, limiting only the time within which heirs must appear to claim the estate. The Probate Courts of the territory and the Superior Courts of the state have uniformly assumed jurisdiction in this class of cases, and the right of the state or county to appear in the probate proceeding and contest the rights of other claimants has been recognized by the highest court of the state.

In re Sullivan's Estate, 48 Wash. 631.

For these reasons I am of opinion that a valid title was vested in the county by the decree of the Probate Court and that the complaint states no cause of action. This view of the case renders it unnecessary to consider the question of adverse possession. If the complaint contains a defense on that ground it will at once be conceded that the pleading is very inartificially drawn with that object in view, but nevertheless it is difficult to escape the conclusion that the county has held the property adversely under color of title and claim of right far beyond the statutory period.

I have not overlooked the fact that the complaint avers that

Grotnes changed his name, but I assume that this allegation was inserted for the purpose of avoiding a charge of *laches* against the heirs. In any event, it is well established that a man may lawfully change his name, without resorting to legal proceedings, and for all purposes the name thus assumed by him will constitute his legal name, just as much as if he had borne it from birth; and legal proceedings instituted against him under the assumed name will bind him and those claiming under him.

29 Cyc. 271.

The demurrer is sustained.

Indorsed: Opinion. Filed in the U. S. District Court, Western District of Washington, May 8, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court of the Western District of Washington. Northern Division.

THOMAS CHRISTIENSON,
Plaintiff,
vs.
THE COUNTY OF KING,
Defendant.
No. 1969.

ORDER SUSTAINING DEMURRER.

This cause having come on for hearing before the Court on the amended demurrer of defendant to plaintiff's complaint, and the Court having heard the arguments of counsel for and on behalf of the respective parties on the 6th day of April, 1912, and having taken said cause under advisement, written briefs being presented and filed with the Court, and the Court having heretofor announced its decision sustaining said demurrer:

NOW, THEREFORE, in consideration of the premises, it is here and now ORDERED, ADJUDGED and DECREED that the amended demurrer of defendant to plaintiff's com-

plaint, be and the same is here and now sustained. To which order of the Court the plaintiff prayed an exception, which exception was by the Court allowed.

Dated this 16th day of May, 1912.

FRANK H. RUDKIN, Judge.

O. K. as to form.

EDWARD JUDD, Attorney for Plaintiff.

Indorsed: Order Sustaining Demurrer. Filed in the U. S. District Court, Western Dist. of Washington, May 16, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON,
Plaintiff,
vs.
THE COUNTY OF KING,
Defendant.
No. 1969.

ORDER ALLOWING AMENDMENT OF COMPLAINT.

And now on this day this cause having come on to be heard upon the motion of the plaintiff for leave to amend his complaint in this action;

IT IS HEREBY ORDERED by the Court, that the plaintiff be and he hereby is granted leave to file an amended complaint in this action, and it is hereby ordered that the amended demurrer of the defendant to the original complaint in this action stand to the amended complaint in this action.

Done in open Court this 25th day of May, 1912.

FRANK H. RUDKIN, Judge.

O. K. J. F. M.
R. H. E.

Indorsed: Order Allowing Amendment of Complaint. Filed in the U. S. District Court, Western Dist. of Washington, May 25, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff,* vs. THE COUNTY OF KING, *Defendant.*	No. 1969.

AMENDED COMPLAINT.

And now comes the plaintiff, and by leave of Court first had and obtained, files his amended complaint in the words and figures following, to-wit:

I.

That the plaintiff is a subject of the King of Norway.

II.

That the defendant is a municipal corporation, organized under the laws of the State of Washington, and is a citizen of the State of Washington.

III.

That the controversy in this action involves a subject of a foreign government and a citizen of the State of Washington, and of the United States of America. That the matter in dispute and controversy in this action, exclusive of interest and costs, exceeds in value the sum of Three Hundred Thousand Dollars ($300,000.00).

That the controversy in this action involves the construction of that portion of Amendment V to the Constitution of the United States which provides that private property shall not be taken for public use without just compensation.

That the controversy in this action involves the construction of those parts of Amendment V and XIV to the Constitution of the United States which provide that no person shall be deprived of property without due process of law.

That the controversy in this action involves the construction of the act of the United States Congress which established the

Courts of the Territory of Washington, creating among other judicial tribunals, the Probate Courts of said Territory, being Section 1907 of the Revised Statutes of the United States of 1874.

That the controversy in this action involves the construction of the act of the United States Congress vesting the legislative power of the Territory of Washington, and providing that no law shall be passed by the Territorial legislature interfering with the primary disposal of the soil, being Section 1851 of the Revised Statutes of the United States of 1874.

That the controversy in this action involves the construction of the act of the United States Congress restricting legislative power of the Territory of Washington, and providing among other things, that every law shall embrace but one object, and that shall be expressed in the title, being Section 1924 of the Revised Statutes of the United States of America of 1874.

IV.

That during the month of March, 1865, one Lars Torgerson Grotnes, departed this life in the County of King, in the Territory of Washington, intestate, and being at the time of his death a resident of the County of King. That at the time of his death, said Lars Torgerson Grotnes was commonly known in the neighborhood where he resided by the name of John Thompson.

V.

That prior to his death, said Lars Torgerson Grotnes had become the owner in fee of a certain tract or parcel of land, the title to which was conveyed to him under the name of John Thompson, which tract or parcel of land is located in the County of King and State of Washington, and more particularly described as follows, to-wit:

Beginning at a post on the right bank of Duwamish River, the same being the southeast corner of the Original Donation Land Claim of Luther M. Collins, in Township 24 North of Range 4 East, in Section 29; running thence east along the south boundary of said claim, and the north boundary of J. Bush's claim 14 chains and 3 links; thence north 13 deg. 04′ east, 124 chains to the north line of said claim, so as not to

enclose any of the improvements upon the east half of that portion of said claim deeded by said L. M. Collins to Joseph Williamson and William Greenfield; thence west along the north line of said claim, 20 chains and 67 links to a post, the same being the northwest corner of said claim; thence south along the west boundary of said claim, 82 chains to a post on the right bank of the Duwamish River, being the southeast corner of Eli B. Maple's land claim; thence along the meanderings of said river to the southwest corner of said land claim, the place of beginning, so as to contain 160 acres.

That said Lars Torgerson Grotnes, under the name of John Thompson, acquired title to said land by a deed conveying the same in fee to him by Joseph Williamson and William Greenfield, which deed was duly recorded in the office of the Recorder of Conveyances of the County of King in the Territory of Washington, in Vol. 1 of Deeds on page 14.

That said Joseph Williamson and William Greenfield acquired title to said land by a deed conveying the same in fee to them from Luther M. Collins, which deed was duly recorded in the office of the Recorder of Conveyances of the County of King in the Territory of Washington, in Vol. "A" of Deeds, on page 516.

That said Luther M. Collins acquired title to said land by a patent conveying to him the same in fee from the United States of America, which patent was duly recorded in the office of the Recorder of Conveyances of the County of King in the Territory of Washington, in Vol. 13 of Deeds, on page 699.

VI.

That said Lars Torgerson Grotnes died a bachelor, leaving him surviving as his heirs at law, two brothers, one sister, and the children of a deceased sister, all of whom were subjects of the King of Norway. That the plaintiff is a son of a sister of said Lars Torgerson Grotnes, and one of his heirs at law. That all the other now living heirs at law of said Lars Torgerson Grotnes have by proper mesne conveyances, conveyed their right, title and interest in and to said land above described to the plaintiff. That the plaintiff is now the sole owner in fee of said land.

VII.

That said Lars Torgerson Grotnes was born on or about the 30th day of August, 1829, in the City of Porsgrund, in the Kingdom of Norway. That the name of his father was Torger Engebretson Grotnes, and the name of his mother, was Catherine Grotnes. That at the age of about 21 years, he shipped as a sailor from said city of Porsgrund and went by way of England to Australia, and thence in the year 1856, to the city of San Francisco, California. That while in the harbor of said last named city, he fled from the sailing vessel on which he was a sailor because of abuse and ill treatment. That he changed his name from Lars Torgerson Grotnes, to John Thompson in order to conceal his identity, so that he could not be apprehended and brought back to the vessel from which he had fled. That he came to the neighborhood of Elliott Bay in said King County, and resided in the neighborhood of the same in King County and Kitsap County, in said Territory of Washington, until the time of his death in 1865. That he acquired the land above described under the name of John Thompson.

VIII.

That the heirs at law of Lars Torgerson Grotnes had no knowledge of what had become of him, and did not learn about his death and the place in which he died, nor of the fictitious name which he had assumed, until within three years last past. That since learning thereof, such heirs, and particularly the plaintiff, have been diligently engaged in searching for and procuring the proper proofs of the identity of Lars Torgerson Grotnes and John Thompson, and his relationship to them.

IX.

That on the 26th day of March, 1865, the Probate Court of the County of King in the Territory of Washington, assumed to appoint one Daniel Bagley, administrator of the estate of John Thompson, deceased.

That there was presented to said Probate Court a document in the words and figures following to-wit:

"Petition to the Honorable Probate Court:

I would most respectfully ask to have Mr. Daniel Bagley appointed administrator of the estate of John Thompson, deceased.

H. L. YESLER,
J. WILLIAMSON,

Dated March 11, 1865."

That the said document last above described was the only document presented to said Probate Court purporting to be a petition for the appointment of an administrator of the estate of John Thompson, deceased.

That on the 26th day of March, 1865, said Probate Court as above stated, assumed to appoint Daniel Bagley administrator of the estate of John Thompson, deceased, and the only order thus appointing said Bagley was in the words and figures following, to-wit: "Whereas, John Thompson, of the county aforesaid, on the .... day of March, 1865, died intestate, leaving at the time of his death property subject to administration,

Now, therefore, know all men by these presents that I do therefore appoint Daniel Bagley administrator upon said estate, and authorize him to administer the same according to law.

THOMAS MERCER, Probate Judge.

Dated March 26, 1865."

That on May 26, 1868, there was presented to said Probate Court a petition in the words and figures following, to-wit:
"In the Matter of the Estate of JOHN
THOMPSON, Deceased; DANIEL
BAGLEY, Administrator.

Alexander Gow and James W. Bush being duly sworn upon their oaths depose and say that they are County Commissioners of King County in Washington Territory, that as affiants are informed and believe there is a large sum of money remaining in the hands of said Daniel Bagley, as administrator of said estate, that no heirs have ever appeared to claim the balance in said administrator's hands, that as affiants verily believe no heirs of said Thompson are known to exist; that King County

is entitled to the balance remaining in said administrator's hands.

Wherefore said affiants pray your honor to make an order requiring said Bagley to render an account of the balance in his hands of said estate and requiring him to forthwith pay the same to the treasurer of said King County, as required by law.

To the Probate Court of King County in Washington Territory.

ALEX. GOW,
JAMES W. BUSH.

Subscribed and sworn to before me this 6th day of May, 1868. Witnes my hand and official seal.

(Seal) IKE M. HALL,
Auditor said King County.

Filed May 26, 1868. T. Mercer, Probate Judge."

That based upon the petition last described, there was issued by the said Probate Court a certain citation against Daniel Bagley, administrator of the estate of John Thompson, deceased, which was served upon him by the sheriff of said county of King in the Territory of Washington, which citation and return thereon were in the words and figures following, to-wit:

"Territory of Washington,
County of King—ss.

In the Probate Court of said King County, in the matter of the estate of John Thompson, Deceased.

To the Sheriff of said King County, Greeting:

Whereas the County Commissioners of said King County have filed in the said Probate Court their application under oath asking an order of said court requiring Daniel Bagley to render his final account as administrator of the estate of said John Thompson, deceased, and to pay over to King County the residue of said estate remaining in his hands as such administrator.

Now, therefore, in the name of the United States of America, you are hereby commanded to cite said Daniel Bagley to be

and appear in said Probate Court on the first day of the next term thereof then and there to show cause why such orders shall not be made and an attachment issue against him to compel obedience thereto.

IN TESTIMONY WHEREOF, I, the undersigned Probate Judge, in and for said King County, have hereunto set my hand and affixed my official seal this 26th day of May, 1868.

(Seal) T. MERCER, Probate Judge.

This citation came into my hands May 26th, 1868. Served the same by delivering a true copy to said Daniel Bagley, May 27th, 1868.

L. V. WYCKOFF, Sheriff.
By L. S. SMITH, Deputy.

Services $1.00
Copying 200 words.. .40

1.40

That on July 27, 1868, there was presented to said Probate Court a report of Daniel Bagley, administrator of the estate of John Thompson, deceased, which was in the words and figures following, to-wit:

"July 27th, 1868.

To the Hon. Probate Court of King Co., W. T., holding terms at Seattle, W. T.:

In answer to your citation in the case of John Thompson, deceased, under date of May 26th, 1868, I have to say, that only a few weeks before that I was called upon by Mr. Wold in behalf as he signified of the countrymen of John Thompson and earnestly requested to keep the matter in my hands till he could ascertain the whereabouts of the heirs, as they were well assured that heirs were living in Sweden.

I ask at least till another term of your court to see result of said action and if no word be had of heirs, then that I turn over to the County of King, the property and effects in my hand, so as to make final report to you at the next state term of your court.

DANIEL BAGLEY, Admr."

That on the 29th day of October, 1868, there was presented to said Probate Court an affidavit in the words and figures following, to-wit:

"Territory of Washington,
County of King—ss.

In the Probate Court of King Co., W. T.

In the Matter of the Estate of JOHN
THOMPSON, Dc.

John J. McGilvra on oath says that he is a citizen of King County, W. T., that he has been applied to by the Board of County *Commissions* of King County to pursue the proper action of the above named court to compel Dan'l Bagley, administrator of said estate, to settle with the Court and place said estate in such a position that said county, to whom said estate by law escheats, may have the full benefit thereof. That no definite agreement as to such employment was made, yet affiant believes that a majority, if not all, of the said Board of County Commissioners desire affiant to proceed as the attorney of the county in the premises; affiant further says that it had escaped his memory that this was the time for a regular term of said court or he would have been present and resisted the entry up of said order, now moved to be vacated or any such order in the premises.

Subscribed and sworn to before me this 28th day of October, A. D. 1868.

JOHN J. McGILVRA.

Filed Oct. 29, 1868."

That on February 10, 1869, there was presented to said Probate Court a petition for disposition of the estate of John Thompson, deceased, which was in the words and figures following, to-wit:

"Territory of Washington,
County of King—ss.

In the Probate Court of King County, aforesaid.

In the Matter of the Estate of JOHN
THOMPSON, Dcs.

And now comes the County of King, by their attorney, John J. McGilvra, and moves the Court to revoke the letters of administration issued to Daniel Bagley on or about the 26th day of March, A. D. 1865, for the following reasons:

1st. Because he has been guilty of negligence in failing to make an exhibit as required by S. 285, p. 251, Laws of W. T. of 1863.

2nd. Because he has been guilty of negligence in failing to render his annual accounts (none ever having been rendered) as required by S. 287, p. 251, Laws of W. T., of 1863.

3rd. Because he has proceeded to sell real estate without obtaining a proper order upon petition and notice, as required by Sections 217 and 218, 219, p 239, Laws of W. T., of 1863.

4th. Because no notice of such sale was given as required by S. 228 and cP. of Laws of 1863.

5th. Because no return of such sale was made as required by Sec. 222, P. 241, aforesaid.

6th. Because he has procured no order of confirmation as required by Sec. 234, P. 242, Laws of W. T., of 1863, but has proceeded to deed without such confirmation.

7th. Because the said administrator has been guilty of gross negligence and mismanagement generally in connection with the said estate.

JOHN J. McGILVRA,
Attorney for King Co.

Filed Feb. 10th, 1869."

That on February 12, 1869, there was presented to said Probate Court a petition for disposition of the estate of John Thompson, deceased, which was in the words and figures following, to-wit:

"*In the Probate Court of King County and Washington Territory.*

In the Matter of the Estate of JOHN THOMPSON, Deceased.

PETITION FOR DISPOSITION OF THE ESTATE.

To the Hon. Probate Court of King County, W. T.:

The petition of Daniel Bagley, admr. of the estate of John Thompson, deceased, respectfully shows:

That the final account of your petitioner as such admr. has been filed, and after due hearing and examination was finally settled.

That all the debts of said deceased, and of the estate, and all the expense of the administration thus far incurred, and the taxes that have attached to, or accrued against the said estate have been paid and discharged, and the said estate is now in a condition to be closed.

That the residue of the said estate now remaining in the hands of your petitioner is fully set forth and described in the schedule marked A hereunto annexed and made a part of this petition. That no heirs at law of the said John Thompson have been found after diligent search and effort.

Therefore your petitioner prays that the administration of said estate may be brought to a close, and that he may be discharged from his trust as such administrator. That after due notice given any proceedings had the estate remaining in his hands, as petitioner aforesaid, may be turned over to King County, Washington Territory; or such other or further order made as may be meet in the premises.

And your petitioner will ever pray.

Dated February 12th, A. D. 1869.

DANIEL BAGLEY, Admr."

That in pursuance of the petition last described, there was published a notice of the hearing of said petition, the affidavit of the publication of which notice and said notice filed in said Court were in the words and figures following, to-wit:

"Territory of Washington,
County of King—ss.

S. L. MAXWELL, on oath says that he is the publisher of a weekly newspaper published in Seattle, King Co., W. T., and that the notice, of which a copy is hereto attached, was published therein for four successive weeks from the 5th day of April to the 26th day of April, 1869, inclusive.

S. L. MAXWELL.

Subscribed and sworn to before me this 26th day of May, A. D. 1869.

DANIEL BAGLEY,
Notary Public, Seattle, W. T."

"*In the Probate Court of King County, W. T.*

In the Matter of the Estate of JOHN
THOMPSON, Deceased.

ORDER TO SHOW CAUSE WHY DECREE OF DISTRIBUTION SHOULD NOT BE MADE.

On reading and filing the petition of Daniel Bagley, administrator of the estate of John Thompson, deceased, setting forth that he had filed his final account of his administration of the estate of said deceased in this Court, and that the same has been duly settled and allowed, that all the debts and expenses of the said administration have been duly paid, and that a portion of said estate remains to be divided among the heirs of said deceased, and praying among other things for an order of distribution of the residue of said estate among the persons entitled:

It is ordered: That all persons interested in the estate of the said John Thompson, deceased, be and appear before the Probate Court of the County of King, and Territory of Washington, at the court room of said Court, in the Town of Seattle, in said County, on MONDAY, the 26th day of April, A. D. 1869, at 10 o'clock a. m., then and there to show cause why an order of distribution should not be made of the residue

of said estate among the heirs of said deceased according to law.

It is further ordered that a copy of this order be published for four successive weeks before the said 26th day of April, A. D. 1869, in the Seattle Intelligencer, a newspaper printed and published in the said County of King.

Dated March 29th, 1869.

THOMAS MERCER,
Clerk and Probate Judge."

That such proceedings were had in said estate in said Probate Court, that on the 26th day of May, 1869, a final decree of distribution was entered in said estate, which decree is in the words and figures following, to-wit:

"*In the Probate Court of King County, Washington Territory.*

In the Matter of the Estate of JOHN THOMPSON, Deceased.	Decree of Distribution of the Estate.

Daniel Bagley, the Administrator of the Estate of John Thompson, deceased, having on the 12th day of February, A. D. 1869, filed in this Court his petition, setting forth, among other matters, that his accounts have been finally settled and that all the debts of said decedent and of said estate, and the expenses and charges of administration have been paid, that a portion of said estate remains in his hands, and praying for an order of distribution of the residue of said estate, remaining in his hands as aforesaid:

And this Court having thereupon, to-wit: on the day aforesaid, made an order directing all persons interested in said estate to be and appear before this Court, at the court room thereof, on Monday, the 26th day of April, A. D. 1869, at 10 o'clock a. m., then and there to show cause why an order of distribution should not be made of the residue of said estate according to law, and directing a copy of said order to show cause to be published for four successive weeks before the said 26th day of April, A. D. 1869, in the "Weekly Intelligencer," a

newspaper printed and published in the County of King, Washington Territory;

And at said hour on the said 26th day of April, A. D. 1869, upon satisfactory proof of the due publication in said newspaper of said order to show cause for four successive weeks before said 26th day of April, A. D. 1869, as directed by said Court, the hearing of said petition was by order of this Court duly made and entered, continued until this 26th day of May, A. D. 1869, at 10 o'clock a. m., and at the last mentioned hour and time, the said administrator appearing in person,

This Court proceeded to the hearing of said petition, and the inventory and appraisement of said estate, the final account of said administrator, the decree allowing and settling the same, and the decree of due publication of notice to creditors, together with other documentary evidence and record proofs, were offered and put in evidence, and the said administrator, Daniel Bagley, examined in open court.

And it appearing to the satisfaction of this Court, from said documentary and other proofs, and said examination of said administrator

That said Daniel Bagley duly qualified as such administrator on the 26th day of March, A. D. 1865, and thereupon entered upon the administration of said estate, and has ever since continued to administer the same;

That due and legal notice to creditors was published, and that a true inventory and appraisement of said estate were duly made and returned to this Court;

That more than four years have elapsed since the appointment of said Daniel Bagley as such administrator, and more than four years have expired since the first publication of said notice to creditors;

That said administrator has fully accounted for all the estate that has come to his hands, and that the whole estate, so *far* as it has been discovered, has been fully administered, and the residue thereof, consisting of the property hereinafter particularly described, is now ready for distribution.

That all the debts of said decedent and of said estate, and all the expenses of the administration thereof thus far in-

curred, and all taxes that have attached to or accrued against the said estate, have been paid and discharged, and said estate is now in a condition to be closed;

That said decedent died intestate in the County of King, Washington Territory, on the .... day of March, A. D. 1865, leaving no heirs surviving him;

That since the rendition of his final account, the sum of ($8.00) has been expended by said administrator, the voucher whereof is now presented and filed and said payment is approved by this Court; and the estimated expenses of closing said estate will amount to the sum of $..........

There being no heirs of said decedent, that the entire estate escheat to the County of King, in Washington Territory.

Now on this 26th day of May, A. D. 1869, on motion of said Daniel Bagley, administrator of said estate, and no exceptions or objections being filed or made by any person interested in the said estate or otherwise;

It is hereby ordered, adjudged and decreed: that all the acts and proceedings of said administrator, as reported by this Court and as appearing upon the records thereof, be and the same are hereby approved and confirmed; and that after deducting said estimated expenses of closing the administration, the residue of said estate of John Thompson, deceased, not heretofore distributed, hereinafter particularly described, and now remaining in the hands of said administrator, and any other property not now known or discovered which may belong to the said estate, or in which the said estate may have any interest, be and the same is hereby distributed as follows, to-wit: The entire estate to the County of King, in Washington Territory.

And it is further ordered that the said administrator, upon payment and delivery of the said residue as hereinbefore ordered, and upon filing due and proper vouchers and receipts therefor in this Court, be fully and finally discharged from his trust as such administrator, and that his sureties shall thereupon and thenceforth be discharged from all liability for his future acts.

The following is a particular description of the said residue

of said estate referred to in this decree, and of which distribution is ordered, adjudged and decreed, to-wit:

1st. Cash, to-wit: $343.83 gold coin.

2nd. And real estate, to-wit: One hundred and sixty acres of land on Duwamish River, in King County, W. T., more particularly described in a certain deed from Joseph Williamson and William Greenfield to John Thompson, dated January 19th, A. D. 1865, and recorded in Volume 1 of the records of King County, W. T., on pages 458, 459 and 460.

Third. A lease of said land to John Martin, dated March 5th, 1866, on which the entire rent reserved remains due and unpaid.

Dated May 26th, 1869.

THOMAS MERCER,
Probate Judge.

Probate Journal.
Volume "A," page 175."

IX.

That said decree was null and void, and said Probate Court was wholly without jurisdiction to in any manner vest, transfer, convey, fix or pass upon the title to the land described in said decree, and had no power or authority to declare said land escheated which is the same land as above described.

That all claims to said land by the defendant, and all acts done by the defendant in reference to said land, and all control exercised or attempted to be exercised by the defendant over said land, have been made, done, performed and exercised, under and by virtue of said null and void decree above described.

That the defendant has not, and never has had any contract, deed, conveyance, decree, judgment, nor other writing, record or document evidencing, or purporting to evidence any title on its part in or to said land.

That the defendant has never at any time begun or instituted any suit or legal proceeding of any nature before any court, officer or tribunal, for the purpose of having an escheat of said land adjudicated, adjudged or declared; nor has any

other authority or officer ever begun or instituted any such suit or legal proceeding.

That the defendant has never at any time begun or instituted any suit or legal proceeding of any nature before any court, officer or tribunal, for the purpose of having any title, or claim of title, which it had or might have in said land established, approved, confirmed or quieted; nor has any other public authority or officer ever begun or instituted any such suit or legal proceeding.

X.

That after the entry of said decree, the land above described was marked upon the assessor's roll as county property and as exempt from taxation, and has ever since been so treated, except certain portions thereof hereinafter described, which the defendant has assumed to convey to private parties by deed.

That about the year 1885, the County of King, in the then Territory of Washington, occupied a certain portion of the tract of land above described, which said portion remained in its occupancy and after the organization of the State of Washington, has remained in the control of the defendant, and is generally known as the "King County Farm," and is more specifically described as follows:

Beginning at a post on the right bank of the Duwamish River, the same being the southwest corner of the original donation land claim of Luther M. Collins, in Township 24 North, Range 4 East, in Section 29; running thence east along the south boundary of said claim, and the north boundary of J. Bush's claim 14 chains and 3 links; thence north 13 degrees and 4′ east, to the east bank of the Duwamish River; thence in a southwesterly direction along the meanderings of said river to the place of beginning.

That the same has never been used for any county purposes, but has been let out to tenants for the purpose of being farmed and producing a monetary income for the county.

That about the year 1900, the defendant occupied a portion of the tract of land first above described, which portion is known as the "King County Hospital Grounds," and is more specifically described as follows:

Beginning at the southeast corner of block 6 in King County Addition to the City of Seattle, thence along the southwest side of said block 6 to the southwest corner of said block 6; thence south to the east bank of the Duwamish river; thence in a southerly direction along the east bank of said Duwamish River to the point of its intersection with the west line of Charleston Avenue; thence in a northeasterly direction along the west side of Charleston Avenue to the place of beginning.

That the defendant has placed upon the last described tract of land valuable improvements in the shape of a hospital building and its appurtenances, the exact value of which are to the plaintiff unknown, and since thus occupying the last described tract, has been and now is using the same for county hospital purposes.

That in the year 1892, the defendant assumed to make a plat of a certain portion of the tract of land first above described, and caused the same to be called the "King County Addition to the City of Seattle," and caused the same to be recorded in the office of the Auditor of King County in Volume VIII of Plats on page 59.

That the defendant has assumed to sell and convey to private parties all of the land composing said last named King County Addition, except such portion as is described as follows:

"Lots 1, 2, 3, 4, 8 and 9 in Block 5; Lots 5, 6, 7, 8, 9, in Block 7, which said Lots always have been and now are vacant and unoccupied, and Lots 20 and 21 in Block 7, which last two lots were unoccupied and vacant until within less than ten years last past, but within the time last mentioned have been leased by the defendant to other parties to produce a monetary income.

That in the year 1903, the defendant had assumed to make a plat of a certain portion of the tract of land first above described and caused the same to be called "King County 2nd Addition to the City of Seattle," and caused the same to be recorded in the office of the Auditor of said King County, in Volume XI of Plats, on page 1. That the defendant has assumed to sell and convey to private parties all of the land composing said last named King County 2nd Addition, except such portion as is described as follows:

Lots 1 to 9 both inclusive; Lots 13 to 16 both inclusive, and Lots 20 to 27 both inclusive, in Block 1; all of Blocks 2, 3 and 4; Lots 1 to 4 both inclusive; 8, 9, 12 to 16 both inclusive, and 21 to 25 both inclusive, all in Block 5; Lots 1 to 14 both inclusive, and 20 to 23 both inclusive in Block 6; Lots 2, 6 to 9 both inclusive, and 18 to 20 both inclusive, all in Block 7; Lot 1 in Block 8; and Lots 2 to 5 both inclusive in Block 12, which said Lots always have been and now are vacant and unoccupied, and Lots 10 to 12 both inclusive, and 17 to 19 both inclusive, all in Block 1, which 6 last described lots were unoccupied and vacant until within less than ten years last past, but within the time last mentioned have been leased by the defendant to other parties to produce a monetary income.

XI.

That the tracts of land hereinbefore described as the "King County Farm;" "King County Hospital Grounds;" "King County Addition to the City of Seattle" and "King County 2nd Addition to the City of Seattle," together comprise the whole of the tract herein first above described as being the property belonging to Lars Torgerson Grotnes, except certain portions thereof which have been appropriated for public or quasi public purposes for railroad rights of way or highways.

XII.

That the plaintiff is entitled to recover from the defendant all of the buildings and improvements and tangible betterments which the defendant placed upon or attached to said land prior to the year 1903, but the plaintiff hereby expressly disclaims all right to any such buildings, improvements or tangible betterments, and hereby admits and consents that the defendant may retain the same, or be reimbursed for the same out of the said land at the present value of said buildings, improvements and tangible betterments.

* * * * * * *

WHEREFORE, the plaintiff prays that he may recover possession from the defendant of the land hereinbefore described as the "King County Farm;" the land hereinbefore described as the "King County Hospital Grounds;" the land hereinbefore

stated not to have been assumed to be sold and conveyed by the defendant to private parties, which is located in said "King County Addition to the City of Seattle," and the land hereinbefore stated not to have been assumed to be sold and conveyed by the defendant to private parties, which is located in said "King County 2nd Addition to the City of Seattle;" and that the plaintiff may recover of the defendant the costs of this action.

EDWARD JUDD,
S. S. LANGLAND and
W. A. KEENE,
Attorneys for Plaintiff.

P. O. Address: 620-621 New York Block, Seattle, Washington.

State of Washington,
County of King—ss.

THOMAS CHRISTIANSON being first duly sworn on oath deposes and says, that he is the plaintiff in the above entitled action; that he has heard read the foregoing amended complaint, and knows the contents thereof, and verily believes the same to be true.

THOMAS CHRISTIANSON.

SUBSCRIBED and sworn to before me this 18th day of May, A. D. 1912.

ANNA RASDALE,
Notary Public in and for the State of Washington,
residing at Seattle.

Copy of within Amended Complaint received and service of the same acknowledged this 21st day of May, 1912.

JOHN F. MURPHY and
ROBERT H. EVANS,
Attorneys for Defendant.

Indorsed: Amended Complaint. Filed in the U. S. District Court, Western Dist. of Washington, May 27, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTENSON, *Plaintiff,* vs. THE COUNTY OF KING, *Defendant.*	}	No. 1969.

ORDER SUSTAINING DEMURRER AND FINAL JUDGMENT.

This cause coming on for hearing on the amended demurrer of defendant to the amended complaint of plaintiff, and the court having examined said amended complaint and each and all of the allegations thereof, and being of the opinion, for the reasons heretofore assigned by this court now on file in this cause, that said demurrer to said amended complaint should be sustained:

Now, therefore, it is here and now ORDERED, ADJUDGED and DECREED that said demurrer be and the same is here and now sustained.

The plaintiff having elected to stand upon said amended complaint and having refused to plead further in said action, it is here and now ORDERED, ADJUDGED and DECREED that said action be and the same is here and now dismissed with prejudice and with costs to defendant.

Done in open court this 8th day of June, 1912.

FRANK H. RUDKIN, Judge.

Copy of within order received and service of same acknowledged this 27th day of May, 1912.

EDWARD JUDD and
S. S. LANGLAND,
Attorneys for Plaintiff.

Indorsed: Order Sustaining Demurrer and Final Judgment. Filed in the U. S. District Court, Western Dist. of Washington, June 8, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff*, vs. THE COUNTY OF KING, *Defendant.*	No. 1969.

PETITION FOR WRIT OF ERROR.

THOMAS CHRISTIANSON, plaintiff in the above entitled action, feeling himself aggrived by the judgment entered in the above entitled action on the 8th day of June, 1912, comes now by Edward Judd, S. S. Langland and W. A. Keene, his attorneys, and petitions said court for an order allowing said plaintiff to prosecute a writ of error to the Honorable United States Circuit Court of Appeals for the Ninth Circuit under and according to the laws of the United States in that behalf made and provided, and also for an order fixing the amount of security which the said plaintiff shall give and furnish upon said writ of error, and that upon the giving of such security, all further proceedings in said District Court be suspended and stayed until the determination of said writ of error by the United States Circuit Court of Appeals for the Ninth Circuit.

And your petitioner will ever pray, etc.

EDWARD JUDD,
S. S. LANGLAND,
W. A. KEENE,
Attorneys for Plaintiff.

Received a copy of the within Petition this 14th day of June, 1912.

JOHN F. MURPHY,
ROBERT H. EVANS,
Attorneys for Defendant.

Indorsed: Petition for Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, June 17, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff,* vs. THE COUNTY OF KING, *Defendant.*	No. 1969.

ASSIGNMENT OF ERRORS.

And now comes the above named plaintiff, Thomas Christianson, by his attorneys. Edward Judd, S. S. Langland and W. A. Keene, and in connection with his petition for a writ of error herein, makes the following Assignment of Errors which he will urge upon the prosecution of his said writ of error in the above entitled action, and which he avers occurred upon the trial and hearing of said action, to-wit:

1. The Court erred in sustaining the defendant's amended demurrer to the plaintiff's amended complaint.

2. The Court erred in not overruling the defendant's amended demurrer to the plaintiff's amended complaint.

3. The Court erred in not requiring the defendant to answer the amended complaint of the plaintiff.

4. The Court erred in rendering and entering the judgment in the above entitled action dismissing the action of the plaintiff.

WHEREFORE said plaintiff, Thomas Christianson, prays that said judgment of the District Court of the United States for the Western District of Washington, Northern Division, be reversed, and that said Court be instructed to overrule the defendant's amended demurrer to the plaintiff's amended complaint, and require the defendant to answer said amended complaint, and proceed with the further hearing of the action in the above entitled action in accordance with law.

EDWARD JUDD,
S. S. LANGLAND,
W. A. KEENE,
Attorneys for Plaintiff.

Received a copy of the within Assignment of Errors this 14th day of June, 1912.

JOHN F. MURPHY,
ROBERT H. EVANS,
Attorneys for Defendant.

Indorsed: Assignment of Errors. Filed in the U. S. District Court, Western Dist. of Washington, June 17, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON,
Plaintiff,
vs.
THE COUNTY OF KING,
Defendant.

No. 1969.

ORDER ALLOWING WRIT OF ERROR.

Upon motion of Edward Judd, S. S. Langland and W. S. Keene, attorneys for plaintiff in the above entitled action, and upon the filing of the petition for a writ of error and an assignment of errors in this action;

IT IS ORDERED, that a writ of error be and is hereby allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the judgment heretofore entered herein, and that the amount of bond on said writ of error, such bond to act as a supersedeas thereon, be and is hereby fixed at Three Hundred Dollars.

Done in open Court this 21st day of June, 1912.

FRANK H. RUDKIN, Judge.

O. K. as to amount of bond.

JOHN F. MURPHY,
ROBERT EVANS,
Attorneys for Defendant.

Indorsed: Order Allowing Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, June 21, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff,* vs. THE COUNTY OF KING, *Defendant.*	No. 1969.

BOND ON WRIT OF ERROR.

KNOW ALL MEN BY THESE PRESENTS:

That THOMAS CHRISTIANSON, above named as principal, and AMERICAN SURETY COMPANY, of New York, a corporation organized under the laws of the State of New York, as surety, are held and firmly bound unto the County of King, defendant above named, in the full and just sum of Three Hundred Dollars, to be paid to the said defendant, to which payment well and truly to be made the said principal binds himself and his heirs, executors, administrators and assigns, and the said surety binds itself, its successors and assigns jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 17th day of June, 1912.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, lately, at a session of the District Court of the United States for the Western District of Washington, Northern Division, in a suit pending in said Court between the said Thomas Christianson, as plaintiff, and the said County of King as defendant, there was on the 8th day of June, 1912, rendered a final judgment against said plaintiff for the costs of suit; and

WHEREAS, the said plaintiff has obtained from the said

District Court a writ of error to reverse the judgment in the aforesaid suit, and a citation directed to the said defendant has been issued citing and admonishing the defendant to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit to be held at San Francisco, California, or at such place as may be provided by law; now, therefore,

If the said Thomas Christianson shall prosecute his writ of error to effect, and shall answer all damages and costs that may be awarded against him if he fails to make his plea good, then the above obligation is to be void; otherwise to remain in full force and effect.

THOMAS CHRISTIANSON (Seal).
By Edward Judd, His Attorney.

(Seal) AMERICAN SURETY COMPANY OF NEW YORK.
By Edward Lyons, Resident Vice-President.
S. H. Melrose, Resident Assistant Secretary.

The sufficiency of the surety to the foregoing bond approved by me this 21st day of June, 1912.

FRANK H. RUDKIN,
District Judge.

O. K. as to form.
JOHN F. MURPHY,
ROBERT H. EVANS,
Attorneys for Defendant.

Indorsed: Bond on Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, June 21, 1912. A. W. Engle, Clerk. By S., Deputy.

In the United States District Court for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON, *Plaintiff,*
vs.
THE COUNTY OF KING, *Defendant.*
No. 1969.

PRAECIPE FOR TRANSCRIPT OF RECORD.

TO THE CLERK OF THE ABOVE ENTITLED COURT:

You will please prepare and certify a transcript for the United States Circuit Court of Appeals for the Ninth Circuit, consisting of the following files, records and papers in the above entitled case:

1. Complaint. Filed April 24, 1911.
2. Amended Demurrer to Complaint. Filed May 25, 1911.
3. Opinion. Filed May 8, 1912.
4. Order Sustaining Amended Demurrer to Complaint. Filed May 16, 1912.
5. Order Allowing Amendment of Complaint. Filed May 27, 1912.
6. Amended Complaint. Filed May 27, 1912.
7. Order Sustaining Amended Demurrer to Amended Complaint and Judgment. Filed June 8, 1912.
8. Petition for Writ of Error. Filed June 17, 1912.
9. Assignment of Errors. Filed June 17, 1912.
10. Order Allowing Writ of Error and fixing Bond.
11. Writ of Error and Copy and Proof of Service.
12. Citation and Copy and Proof of Service.
13. Bond.
14. Praecipe.

EDWARD JUDD,
S. S. LANGLAND,
W. A. KEENE,
Attorneys for Plaintiff.

Indorsed: Praecipe for Transcript of Record. Filed in the U. S. District Court, Western Dist. of Washington, June 21, 1912. A. W. Engle, Clerk. By S., Deputy.

In the District Court of the United States for the Western District of Washington. Northern Division.

THOMAS CHRISTIANSON,
Plaintiff in Error,
vs.
THE COUNTY OF KING,
Defendant in Error.
No. 1969.

CLERK'S CERTIFICATE TO TRANSCRIPT OF RECORD.

United States of America,
Western District of Washington—ss.

I, A. W. Engle, Clerk of the District Court of the United States, for the Western District of Washington, do hereby certify the foregoing fifty-five printed pages, numbered from one to fifty-five, inclusive, to be a full, true and correct copy of the record and proceedings in the above and foregoing entitled cause as is called for by the Praecipe of the Attorneys for Plaintiff in Error, as the same remain of record and on file in the office of the Clerk of the said Court, and that the same constitutes the return to the Writ of Error received and filed in the office of the Clerk of the said District Court on June 21, 1912.

I further certify that I annex hereto and herewith transmit the original Writ of Error and Citation in said cause.

I further certify that the cost of preparing and certifying the foregoing return to Writ of Error is the sum of Sixty-five Dollars and Ninety-five Cents ($65.95), and that the said sum has been paid to me by Messrs. Edward Judd, Samuel S. Langland and Walter A. Keene, of counsel for Plaintiff in Error.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, at Seattle, in said District, this 25th day of July, 1912.

(Seal) A. W. ENGLE, Clerk.

In the United States Circuit Court of Appeals for the Ninth Circuit.

THOMAS CHRISTIANSON, *Plaintiff in Error,* vs. THE COUNTY OF KING, *Defendant in Error.*	No. 1969. CITATION.

United States of America—ss.

THE PRESIDENT OF THE UNITED STATES TO THE COUNTY OF KING and to JOHN F. MURPHY and ROBERT H. EVANS, DEFENDANT'S ATTORNEYS:

YOU ARE HEREBY CITED and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 21st day of July, 1912, pursuant to a Writ of Error filed in the Clerk's office for the District Court of the United States for the Western District of Washington, Northern Division, wherein THOMAS CHRISTIANSON is Plaintiff in Error, and you are Defendant in Error, to show cause, if any there be, why the judgment in the said Writ of Error mentioned, should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS the HONORABLE EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States, this 21st day of June, 1912.

(Seal) C. H. HANFORD,
District Judge Presiding in the United States District Court for the Western District of Washington, Northern Division.

We hereby accept due personal service of the foregoing Citation on behalf of The County of King, Defendant in Error, and for ourselves as Defendant's Attorneys, this 9th day of July, 1912.

JOHN F. MURPHY,
ROBERT H. EVANS,
Attorneys for Defendant in Error, The County of King.

Indorsed: Original. In the United States Circuit Court of Appeals for the Ninth Circuit. Thomas Christenson, Plaintiff in Error, vs. The County of King, Defendant in Error. CITATION. Filed in the U. S. District Court, Western Dist. of Washington, Jun. 21, 1912. A. W. Engle, Clerk, by S., Deputy. Edward Judd, S. S. Langland, W. A. Keene, Attorneys for Plaintiff, 620 New York Block, Seattle, Washington.

In the United States Circuit Court of Appeals for the Ninth Circuit.

THOMAS CHRISTIANSON,
Plaintiff in Error,
vs.
THE COUNTY OF KING,
Defendant in Error.

No. 1969.

WRIT OF ERROR.

United States of America—ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA, TO THE HONORABLE JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRIC OF WASHINGTON, NORTHERN DIVISION—GREETING:

Because in the records and proceedings, as also in the rendition of the judgment, of a plea which is in the said District Court before you, between THOMAS CHRISTIANSON, Plaintiff, and THE COUNTY OF KING, Defendant, a manifest error has happened to the great damage of the said Plaintiff, THOMAS CHRISTIANSON, and it being fit, and we being willing that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your Seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit; together with this Writ, so that you have the same at the City of San Francisco,

in the State of California, on the 21st day of July, 1912, in said Circuit Court of Appeals, to be then and there held, and that the record and proceedings aforesaid being inspected, the said United States Circuit Court of Appeals may cause further to be done herein, to correct that error, what of right and according to the law and custom of the United States should be done.

WITNESS the Honorable Edward Douglass White, Chief Justice of the Supreme Court of the United States, this 21st day of June, in the year of our Lord, one thousand nine hundred and twelve, and of the Independence of the United States one hundred and thirty-sixth.

(Seal) A. W. ENGLE,

Clerk of the District Court of the United States, for the Western District of Washington, Northern Division.

By F. A. SIMPKINS, Deputy Clerk.

The foregoing Writ is allowed by me this 21st day of June, 1912.

C. H. HANFORD,

District Judge, Presiding in the United States District Court for the Western District of Washington, Northern Division.

We hereby accept due personal service of the foregoing Writ of Error on behalf of The County of King, defendant in error, this 9th day of July, 1912, and acknowledge receipt of a copy of said Writ of Error, copy of Bond on Writ of Error, copy of Assignment of Errors, copy of Petition for Writ of Error, and copy of Order Allowing Writ of Error.

JOHN F. MURPHY,

ROBT. H. EVANS,

Attorneys for The County of King, Defendant in Error.

Indorsed: Original. In the United States Circuit Court of Appeals for the Ninth Circuit. Thomas Christenson, Plaintiff in Error vs. The County of King, Defendant in Error. WRIT OF ERROR. Filed in the U. S. District Court, Western Dist. of Washington, Jun. 21, 1912, A. W. Engle, Clerk, by S., Deputy. Edward Judd, S. S. Langland, W. A. Keene, Attorneys for Plaintiff, 620 New York Block, Seattle, Washington.